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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,065	10/19/2001	Mitsunobu Yoshida	70904/56627	3923

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EXAMINER

MAGEE, CHRISTOPHER R

ART UNIT

PAPER NUMBER

2653

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/036,065	Applicant(s) YOSHIDA, MITSUNOBU	
	Examiner Christopher R. Magee	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 is/are allowed.
- 6) ☒ Claim(s) 1, 9-18 and 23 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 19-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The reply filed 8/4/2004 was applied to the following effect: All relevant objections are withdrawn as being satisfied.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- Claims 1, 9, 10, 14 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanishima (US 6,597,533 B1).

➤ Regarding claims 1, 9 and 10, Tanishima shows a disk cartridge C, comprising:

a disk D for storing data;

a cartridge C for containing the disk in a rotatable manner, complete with a read/write window through which read/write means of an optical disk read/write device makes internal access;

a shutter 86 which, when the cartridge is inserted into the optical disk read/write device and the read/write window is opened, slides on the cartridge in a direction opposite to a direction of the insertion as a result of the insertion; and

a lock member 94 for engaging with the shutter to prevent the shutter from moving when the shutter is closed and disengaging from the shutter as a result of the insertion of the cartridge;

wherein the lock member 94 includes:

an engagement section 94b for engaging with the shutter near a side face of the cartridge;

a lever section (not numbered) which rotates around a rotation support point which is located closer to a middle front part of the cartridge in terms of the direction of the insertion than is the engagement section; and

a spring section 94c, rooted at the lever section, opposite the engagement section, between the engagement section and the rotation support point and a portion of which extends past the rotation support point, for pressing the lever section to apply thereto a rotational force in such a direction that the lever section can engage with the shutter (col. 19, lines 10-15; Figs. 31-34).

➤ Regarding claim 14, Tanishima shows part of a unlocking member 40c where the unlocking member contacts the lock member 94 is provided substantially parallel to the contact surface of the lock member (Fig. 32).

➤ Regarding claim 23, Tanishima shows the lock member 94 is configured and arranged so as to include another surface that extends outwardly from the perpendicular surface, the another surface being arranged so as to be spaced from the unlocking member 40c when the unlocking member contacts the perpendicular surface (Fig. 31).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claims 11-13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanishima (US 6,597,533 B1) as applied to claim 10 above, and further in view of Takahashi (US 6,236,541 B1).

➤ Regarding claims 11-13 and 15-18, Tanishima shows all the features, *supra*, except the shutter has a shutter window section carved out for engaging with a shutter-moving protuberance of the cartridge holder as a result of insertion of the cartridge into the cartridge holder to cause the shutter to slide and open/close; and

the lock member is adapted so that the shutter moving protuberance is caught in the shutter window section when the unlocking member of the cartridge holder is in contact with the contact surface of the lock member.

Takahashi shows a shutter having a shutter window section carved out for engaging with a shutter moving protuberance of the cartridge holder as a result of insertion of the cartridge into the cartridge holder to cause the shutter to slide and open/close (col. 5, lines 20-23) and a lock member adapted so that the shutter moving protuberance is caught in the shutter window section when the unlocking member of the cartridge holder is in contact with the contact surface of the lock member (col. 7, lines 1-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disc cartridge of Tanishima with a shutter window and a lock member as taught by Takahashi.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc cartridge of Tanishima with a shutter window and a lock member as taught by Takahashi so that the shutter will be locked until proper insertion into a disk device and will not open due to a dropping shock (Takahashi; col. 3, lines 30-43).

Allowable Subject Matter

4. Claims 5-8 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

- **Claim 5** specifies a disk cartridge, which requires:

"wherein the regulator section satisfies an equation: $X < A + B$, where X is an angle between the lever section and the spring section when the lock member is not in engagement, A is an angle between the lever section and the spring section when the lock member is in engagement, and B is an angle by which the lock member is displaced when the lock member is released from engagement."

Tanishima (US 6,597,533 B1) and /or Takahashi (US 6,236,541 B1) do not teach or suggest as claimed in the present invention. Therefore, these features, in combination with other features of claim 5, are not anticipated by, nor made obvious over, the closest prior art of record.

5. Claims 2-4 and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 8/4/2004 have been fully considered but they are not persuasive.

- Applicant asserts on pages 16 -17:

"Also, the disk cartridge of the present invention addresses an issue of how to provide a lock lever with a spring on a triangular corner of a square cartridge where the round disc does not exist. Superficially, and with Figures 1(a), 1(b) attached hereto (i.e., annotated figures from subject application) the lock section (55) of a shutter 47 of a lock lever 54 needs to be positioned at an end of the triangular corner. The lock lever 54 moves around a rotation axis (58) to release the lock. If the spring is behind the lock section (55); the rotational movement of the lock lever 54 is interrupted by a cartridge wall due to the limited space before the cartridge wall in the triangular corner that is the lock lever 54 does not rotate smoothly due to the wall and spring. Thus, with the disk cartridge of the present invention this problem is prevented from occurring.

In contrast to the present invention and according to the cited reference, a spring 94c is behind a lock section 86. Thus, the movement of the lock lever 94b is interrupted by a cartridge wall (wall is hatched in Figure 31). The cited reference therefore cannot solve the issue unlike the present invention."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *"the disk cartridge of the present invention addresses an issue of how to provide a lock lever with a spring on a triangular corner of a square cartridge where the round disc does not exist"*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the rejection of claims 1, 9, 10-18 is upheld.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (703) 605-4256. The examiner can normally be reached on M-F, 8:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 18, 2004



Christopher R. Magee
Patent Examiner
Art Unit 2653

crm



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